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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/494,096 01/28/00 BANNON

G HS 102

EXAMINER

HM22/0321

Patrea L. Pabst Esq.
ARNALL GOLDEN & GREGORY LLP
1201 W. Peachtree Street
Atlanta GA 30309-3450

ART UNIT

PAPER NUMBER

1644
DATE MAILED:

03/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/494,096	Applicant(s) BANNON ET AL.	
	Examiner "Neon" Phuong Huynh	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on ____.

2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) ☐ Claim(s) ____ is/are allowed.

6) ☐ Claim(s) ____ is/are rejected.

7) ☐ Claim(s) ____ is/are objected to.

8) ☒ Claims 1-36 are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. ____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____	20) <input type="checkbox"/> Other:

Art Unit: 1644

DETAILED ACTION

1. **Please note** the location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Group 1640, Technology Center 1600.
2. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2).
Applicant is reminded to amend the specification to indicate SEQ ID NOS, particularly page 20-21, 25, 26, 27 and 30.
3. **Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.
4. Claims 1-36 are pending in instant application.

Election/Restrictions

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 11-13, drawn to a method of making modified allergen, classified in Class 435, subclass 440.
 - II. Claims 14-29, drawn to a modified allergen wherein the modified allergen is peanut Ara h1, classified in Class 530, subclass 402.
 - III. Claims 14-29, drawn to a modified allergen wherein the modified allergen is peanut Ara h2, classified in Class 530, subclass 402.
 - IV. Claims 14-29, drawn to a modified allergen wherein the modified allergen is peanut Ara h3, classified in Class 426, subclass 656.

- V. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from daily product, classified in Class 426, subclass 657.
- VI. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from fish, classified in Class 426, subclass 656.
- VII. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from crustaceans, classified in Class 426, subclass 656.
- VIII. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from mollusks, classified in Class 426, subclass 657.
- IX. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from insects, classified in Class 424, subclass 275.1.
- X. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from molds, classified in Class 424, subclass 275.1.
- XI. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from dust, classified in Class 424, subclass 275.1.
- XII. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from pollens, classified in Class 424, subclass 275.1.
- XIII. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from mammals, classified in Class 530, subclass 300.
- XIV. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from birds, classified in Class 530, subclass 300.
- XV. Claims 14-28, drawn to a modified allergen wherein the modified allergen is from latexes, classified in Class 530, subclass 300.
- XVI. Claims 30-32, drawn to polynucleotides, vector and host cells, classified in Class 536, subclass 23.5, Class 435, subclass 69.1, Class 435, subclass 252.3.
- XVII. Claim 33, drawn to a transgenic plant, classified in Class 435, subclass 419.
- XVIII. Claim 34, drawn to a transgenic animal, classified in Class 800, subclass 21.
- XIX. Claim 35, drawn to a compound, classified in Class 530, subclass 350.
- XX. Claims 36, drawn to a method of treatment modified allergen, classified in Class 424, subclass 184.1.

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6. The inventions are distinct, each from the other because of the following reasons:

Groups II-XIX encompass separate, distinct and unique products. Modified allergen derived from different source, polynucleotide versus transgenic plant and transgenic animals differ with respect to their physiochemical properties, structures, and mode of action. A person of ordinary skill in the art would not envision one in view of the other. Therefore, they are patently distinct.

Groups I and XX are different methods, which require different ingredients, process steps and endpoint. Therefore, they are patently distinct.

7. Because these inventions are distinct for the reasons given above and the search are not co-extensive and divergent subject matter, restriction for examination purposes as indicated is proper.
8. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (703) 308-4844. The examiner can normally be reached Monday through Friday from 8:00 am to 5:00 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

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11. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

March 21, 2001



Patrick J. Nolan, Ph.D.

Primary Examiner

Technology Center 1600

